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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/137,127	08/20/1998	IAN MACMILLAN WARD	604-451	2523

7590 02/12/2003

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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/12/2003

23

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/137,127

Applicant(s)

WARD ET AL.

Examiner

Christopher C Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-25 and 62-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-25 and 62-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks filed 1/30/02 have been entered and carefully considered. Applicant's amendment is not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Double Patenting

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-8, 11-25, and 62-66 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6017834 in view of Bonfield et al and Turner (4662887). Applicant argues that Turner teaches a different type of fiber. This argument is not persuasive because Turner is only relied upon to teach that certain fiber lengths are known in the art.

Applicant argues that Bonfield melts the polyolefin material, which is different from applicant's claimed process. This argument is not persuasive because Bonfield is only cited as a teaching that applicant's claimed filler is known in the art.

Applicant argues that 6017834 teaches making an "assembly" of fibers and that it is not practical to make an assembly of fibers having a length below 1mm. This is not persuasive because very short fibers are often formed into nonwoven webs. This knowledge is common and well known in the art. Moreover, the word "assembly" is

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broad enough to read on fibers that are poured into a mold then contacted with pressure and heated, according to claim 1 of 6017834.

Claim Rejections - 35 USC § 103

4. Claims 1-8, 11-25, and 62-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al (6017834) in view of Bonfield et al (5017627) and Turner et al (4662887).

Applicant argues that the chopped fibers of Ward would be larger than 1mm. Applicant further argues that the skilled artisan would not have been motivated to further reduce the length of Ward's already cut fibers. Initially, the examiner points out that simply because applicant's chopped fibers in the instant invention are longer than 1mm, that this does not mean that other chopped fibers are not shorter than 1mm. For instance, Turner refers to the use of "chopped fibers (col. 4, lines 1)." Turner then specifically teaches a fiber length below 1mm. Therefore, chopped fibers may inherently suggest the use of fibers under 1mm in length to the skilled artisan.

Secondly, the prior art is examined from the vantage point of the skilled artisan. It is the examiner's position that a person having ordinary skill in the art would read Ward's teaching of chopped fibers (which implies that short fibers are desirable) in combination with Turner's teaching of fibers lengths below 1mm as a suggestion to acquire fibers having a length below 1mm. The skilled artisan would not be starting with 3mm fibers, which needed to be further shortened, as applicant suggests. The skilled artisan attempting to practice the invention of Ward would turn to the prior art to fill in

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the gaps in Ward's lack of disclosure of the length of the fibers. Close prior art reveals that chopped fibers shorter than 1mm are desirable. The skilled artisan would then start with fibers below 1mm motivated by the understanding that short fibers allow for a tighter packing density, which would increase the strength and stiffness of the final product.

Applicant argues that Turner only teaches the use of carbon fibers. Not only is the argument not germane to the instant rejection, but it is also incorrect. Turner teaches that fibers can be composed of a number of materials (col. 3, lines 45-53). The examiner again notes that Turner is only relied upon for a teaching of fiber length.

Applicant argues that Bonfield does not suggest a length of 1mm. This argument is not germane to the instant rejection because Bonfield is not cited in support of such a teaching.

Applicant argues that the composite created by the combination set forth above would not have the resulting properties of the instant invention. However, the combination set forth by the examiner teaches applicant's claimed materials, structure, and process of making. Therefore, it is the examiner's position that the resulting properties would be an inherent result of the materials used.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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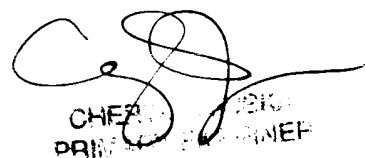
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt
February 10, 2003



CHESTER PRATT
PRATT